

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Thomas Juliano	Team: Squad #11	CCRB Case #: 201805843	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/18/2018 3:35 PM	Location of Incident: East 158th Street and Courtlandt Avenue; PSA7 stationhouse	Precinct: 40	18 Mo. SOL 1/18/2020	EO SOL 1/18/2020	
Date/Time CV Reported Thu, 07/19/2018 10:28 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 07/19/2018 10:28 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Mike Suarez	05841	955540	PSA 7
2. POM Jose Cordero	14899	956547	PSA 7

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Francisco Orellana	10999	954194	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.POM Jose Cordero	Force: At East 158th Street and Courtlandt Avenue in the Bronx, Police Officer Jose Cordero used physical force against § 87(2)(b)	§ 87(2)(g)
B.POM Jose Cordero	Abuse: At East 158th Street and Courtlandt Avenue in the Bronx, Police Officer Jose Cordero frisked § 87(2)(b)	§ 87(2)(g)
C.POM Mike Suarez	Abuse: At East 158th Street and Courtlandt Avenue in the Bronx, Police Officer Mike Suarez frisked § 87(2)(b)	§ 87(2)(g)
D.POM Mike Suarez	Abuse: At East 158th Street and Courtlandt Avenue in the Bronx, Police Officer Mike Suarez searched the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(g)
E.POM Jose Cordero	Force: At East 158th Street and Courtlandt Avenue in the Bronx, Police Officer Jose Cordero tightly handcuffed § 87(2)(b)	§ 87(2)(g)
F.POM Jose Cordero	Force: At the PSA7 stationhouse, Police Officer Jose Cordero tightly handcuffed § 87(2)(b)	§ 87(2)(g)

### Case Summary

On July 19, 2018, § 87(2)(b) filed this complaint with the CCRB via the online website on behalf of himself and his friend, § 87(2)(b).

On July 18, 2018, at approximately 3:35 p.m., § 87(2)(b) was driving his car with § 87(2)(b) in the passenger along East 158<sup>th</sup> Street in the Bronx. Upon reaching the intersection of Courtlandt Avenue, § 87(2)(b) became stuck in traffic. PO Mike Suarez, PO Jose Cordero, and PO Francisco Orellana of PSA 7 approached § 87(2)(b) vehicle and asked him to move it because he was blocking traffic. § 87(2)(b) told the officers that he could not move his vehicle because of the traffic. PO Suarez requested § 87(2)(b) driver's license so that he could issue him a summons. While § 87(2)(b) was looking for his license, PO Cordero asked § 87(2)(b) to step out of the vehicle. § 87(2)(b) replied that he was looking for his license. PO Cordero told § 87(2)(b) to get out of the vehicle or that he would pull him out. PO Cordero opened § 87(2)(b) door, grabbed him by the shoulder, and pulled him out of the vehicle (**Allegation A – Force, § 87(2)(g)**). PO Cordero frisked § 87(2)(b) and PO Suarez frisked § 87(2)(b) (**Allegation B – Abuse of Authority, § 87(2)(g)**; **Allegation C – Abuse of Authority, § 87(2)(g)**). PO Cordero then took § 87(2)(b) to the rear of the vehicle near the trunk. PO Suarez searched § 87(2)(b) vehicle (**Allegation D – Abuse of Authority, § 87(2)(g)**). PO Cordero placed § 87(2)(b) into handcuffs and walked § 87(2)(b) to the police van. While walking to the police van PO Cordero intentionally overtightened the handcuffs (**Allegation E – Force, § 87(2)(g)**). § 87(2)(b) was taken to the PSA7 stationhouse. PO Cordero removed § 87(2)(b) from the police van and walked him into the stationhouse. While walking into the stationhouse, PO Cordero again intentionally overtightened the handcuffs (**Allegation F – Force, § 87(2)(g)**).

Video surveillance was obtained from the rear-exit door of the PSA7 stationhouse. There is no additional video evidence in this case.

### Findings and Recommendations

**Allegation A - Abuse of Authority: At East 158th Street and Courtlandt Avenue in the Bronx, Police Officer Jose Cordero used physical force against § 87(2)(b)**

**Allegation B – Abuse of Authority: At East 158th Street and Courtlandt Avenue in the Bronx, Police Officer Jose Cordero frisked § 87(2)(b)**

**Allegation C – Abuse of Authority: At East 158th Street and Courtlandt Avenue in the Bronx, Police Officer Mike Suarez frisked § 87(2)(b)**

It is undisputed that there was traffic caused by roadway traffic near the intersection of East 158<sup>th</sup> Street and Courtlandt Avenue.

§ 87(2)(b) testified that as he was driving along East 158<sup>th</sup> Street, which was a one-way street, and approaching Courtlandt Avenue, that he approached a double-parked vehicle that was parked just behind the crosswalk of the intersection of East 158<sup>th</sup> Street and Courtlandt Avenue. A NYPD marked van pulled into the crosswalk and faced the double-parked car nose-to-nose. A man ran from the sidewalk, got into the double-parked car, and drove away. § 87(2)(b) was not sure if the officers were going to continue driving the wrong direction on East 158<sup>th</sup> Street toward him, and subsequently he did not want to drive forward toward them as to give them the right of way.

§ 87(2)(b) gestured to the officers by sticking his hand out of the window and waving, in an attempt to ask them if they were coming his way. The officers gestured back; however, § 87(2)(b) could not understand what they were trying to say. The officers exited their car and approached § 87(2)(b) car. § 87(2)(b) shifted his car into park. PO Cordero approached § 87(2)(b) driver side and PO Suarez approached the passenger side.

PO Suarez asked § 87(2)(b) to move his car. § 87(2)(b) pointed to the traffic and asked PO Suarez where he wanted him to go. § 87(2)(b) told PO Suarez that he would move his car as soon as he was able to. PO Suarez told § 87(2)(b) again to move his car. § 87(2)(b) again pointed to the traffic and asked where he was supposed to go. PO Cordero told § 87(2)(b) to move his car. § 87(2)(b) stated, "Again, where would you like me to go officer? I can't move my car." PO Suarez replied, "Okay, if you can't move your car, I'm going to give you a summons."

§ 87(2)(b) told PO Suarez, "Alright, if you want to give me a summons give me a summons." PO Suarez then asked § 87(2)(b) for his driver's license. § 87(2)(b) patted his shorts pockets, but his license was not in his pockets. § 87(2)(b) then remembered that he put his license in his middle console, and he went to open the console. As § 87(2)(b) was reaching for the console, PO Cordero told § 87(2)(b) to get out of the car. § 87(2)(b) had been looking for his license for approximately ten seconds. § 87(2)(b) told PO Cordero that he was getting his license, and PO Cordero responded, "No, get out of your car." § 87(2)(b) replied, "Once again, why am I getting out of my car? You asked for my license, I'm giving you my license with no problem." PO Cordero told § 87(2)(b) "If you don't get out of your car I'm going to pull you out." PO Cordero had asked § 87(2)(b) twice to get out of the car prior to this statement. § 87(2)(b) replied, "If that's what you want to do." § 87(2)(b) spoke with a calm and respectful tone for the duration of the incident. PO Cordero opened § 87(2)(b) driver side door, grabbed § 87(2)(b) left upper arm with his left hand, and pulled him out of the car. § 87(2)(b) complied and exited the car without putting up any kind of resistance. After he was pulled out of the car, PO Cordero put § 87(2)(b) hands against the roof of the car and patted down § 87(2)(b) shorts pockets. While § 87(2)(b) was being frisked, he saw PO Suarez patting down § 87(2)(b). He could not see where PO Suarez was patting § 87(2)(b) as he was watching over the roof of the car, but stated that the frisk lasted 10-15 seconds. § 87(2)(b) was then taken to the back of the car, where he was frisked for a second time. PO Cordero then placed § 87(2)(b) in handcuffs. § 87(2)(b) was not arrested and left the location on foot. There was a crowd of people standing on the corner; however, they did not get involved in the incident nor did § 87(2)(b) ask them for assistance or attempt to get them involved in any way.

§ 87(2)(b) provided a statement to the investigation while he was incarcerated via video teleconferencing (VTC). A verification form was mailed to § 87(2)(b) however, the documents were returned as undeliverable as § 87(2)(b) was released. The field team went to § 87(2)(b) to have him sign the verification form; however, he refused to sign the verification form (**Board Review 01**), § 87(2)(b) was inconsistent with § 87(2)(b) sworn testimony. § 87(2)(b) stated that PO Cordero asked for § 87(2)(b) license and § 87(2)(b) provided it to him. PO Suarez then asked § 87(2)(b) to get out of the vehicle and § 87(2)(b) got out on his own. § 87(2)(b) did not hear PO Cordero say, "If you don't get out of the car, I'll pull you out." After § 87(2)(b) got out of the car, PO Cordero took § 87(2)(b) to the back of the

car and placed him into handcuffs. After § 87(2)(b) was placed into handcuffs, PO Cordero frisked § 87(2)(b) was not frisked and was released on scene.

PO Cordero, PO Suarez, and PO Orellana were consistent in their statements that upon getting to the intersection of East 158<sup>th</sup> Street and Courtlandt Avenue, that they noticed three double parked cars on East 158<sup>th</sup> Street which were making traffic worse. § 87(2)(b) vehicle was the second double parked car. PO Suarez asked over the PA system for the cars to move. The car in front of and the car behind § 87(2)(b)'s car moved. The officers then asked again for § 87(2)(b) to move his car and he did not. PO Suarez and PO Cordero then exited the police van and approached § 87(2)(b) and asked him to move. § 87(2)(b) cursed at the officers, making statements such as, "Where the fuck do you want me to move?" Traffic was flowing at a rate in which § 87(2)(b) could have moved his car. PO Suarez told § 87(2)(b) that he did not want to give him a summons, that he just wanted him to move his car. § 87(2)(b) still did not move his car, so PO Suarez asked for § 87(2)(b) license. § 87(2)(b) then began moving quickly and reaching under and next to his seat which based on the officers' experience was inconsistent with where drivers typically keep their license. Because of § 87(2)(b) demeanor, and because of how § 87(2)(b) was moving in the vehicle, PO Cordero asked § 87(2)(b) to step out of the vehicle. § 87(2)(b) got out on his own and PO Cordero did not open the driver's door and pull him out. All of the officers were consistent that their intention was to issue § 87(2)(b) a summons for disorderly conduct – blocking vehicle traffic; however, a crowd of approximately eight or nine people formed and § 87(2)(b) yelled out to the crowd for assistance. The crowd then got closer and made statements to the officers such as, "Let him fucking go. Leave him alone. That's fucked up." The officers then deemed the location too unsafe to issue summonses and decided to transport § 87(2)(b) to the PSA7 stationhouse to issue the summonses.

PO Cordero testified that he did not frisk § 87(2)(b) upon him stepping out of the vehicle. PO Cordero only frisked § 87(2)(b) after he was placed in handcuffs and before placing him in the police van. PO Cordero did not see any officers frisk § 87(2)(b)

PO Suarez testified that he did not see § 87(2)(b) be frisked as he was on the passenger side of the car dealing with § 87(2)(b) PO Suarez did not frisk § 87(2)(b)

PO Orellana testified that he did not recall if § 87(2)(b) or § 87(2)(b) were frisked after getting out of the car; however, he stated that § 87(2)(b) was frisked after he was placed into handcuffs.

§ 87(2)(b), § 87(2)(g)

**Allegation D – Abuse of Authority: At East 158th Street and Courtlandt Avenue in the Bronx, Police Officer Mike Suarez searched the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) testified that he spoke with the officers in a calm and respectful tone for the entire duration of the incident. When § 87(2)(b) was asked for his driver's license, he patted his pockets and then went into his center console. The officers then asked him to step out of his vehicle and he was taken to the trunk of his car. While near the trunk of his car, he saw through the rear windshield PO Suarez searching through the front passenger side door and did not open any other doors. PO Suarez looked by the seats and opened the center console. PO Suarez did not move anything inside the vehicle nor did he open the glove box or go into the trunk. The search lasted approximately 20 seconds.

§ 87(2)(b) who provided an unverified statement, stated that he did not see PO Suarez enter § 87(2)(b) vehicle.

PO Suarez testified that when he asked § 87(2)(b) to move his car, that § 87(2)(b) became upset, yelled and cursed at the officers, and refused to move his car. PO Suarez asked § 87(2)(b) for his driver's license so that he could issue him a summons. § 87(2)(b) did not acknowledge PO Suarez's request, continued to yell and curse, and began moving around inside of the vehicle, reaching on the sides of his seat and under his seat. § 87(2)(b) only began moving after he was asked for his license. PO Suarez did not understand why § 87(2)(b) license would be under his seat, and asked § 87(2)(b) if he was looking for his license, and asked what he was reaching for. § 87(2)(b) did not answer the question. PO Suarez felt that the situation was unsafe as he did not know what § 87(2)(b) was looking or reaching for. PO Cordero asked § 87(2)(b) to step out of the vehicle. After § 87(2)(b) exited the vehicle, PO Suarez asked § 87(2)(b) if he had anything on him that he was not supposed to have. PO Suarez was asking specifically about weapons, and asked § 87(2)(b) if he had anything in the vehicle because of how § 87(2)(b) was acting, and moving around the vehicle. § 87(2)(b) replied, "Fucking no, you can search the vehicle if you want. I don't care. This is bullshit." PO Suarez then went into § 87(2)(b) vehicle through the passenger door and searched the front area of the car searching by the driver's seat. PO Suarez was looking for weapons in the areas that § 87(2)(b) was reaching. PO Suarez did not open any compartments in the vehicle. PO Suarez searched the car for approximately thirty seconds.

PO Cordero was consistent with PO Suarez in regards to § 87(2)(b) demeanor and his movements around the vehicle. PO Cordero did not see PO Suarez search § 87(2)(b) car because he was focusing on dealing with § 87(2)(b)

PO Orellana testified that PO Suarez asked § 87(2)(b) if he could search the car and § 87(2)(b) replied something along the lines of "Do whatever the fuck you want." PO Suarez knew that PO Suarez entered the driver's door and searched around the front seats of § 87(2)(b) car, but did not see specifically where PO Suarez searched as he was toward the front of § 87(2)(b)'s car dealing with the crowd and asking them to back up.

§ 87(2)(b), § 87(2)(g)

**Allegation E – Force: At East 158th Street and Courtlandt Avenue in the Bronx, Police Officer Jose Cordero tightly handcuffed § 87(2)(b)**

**Allegation F – Force: At the PSA7 stationhouse, Police Officer Jose Cordero tightly handcuffed § 87(2)(b)**

§ 87(2)(b) testified that while he was standing near the trunk of his car that PO Cordero put handcuffs on him and then squeezed both cuffs so that they were uncomfortably tight. PO Cordero then walked § 87(2)(b) to the police van. While they were walking, PO Cordero squeezed the handcuffs again in an attempt to make them tighter; however, there was not any more room for the cuffs to tighten. § 87(2)(b) was then taken to the PSA7 stationhouse. The officers pulled into the back of the stationhouse and § 87(2)(b) was removed from the van. PO Cordero walked § 87(2)(b) into the stationhouse, and while walking, PO Cordero put his chest close to § 87(2)(b) back, in an attempt to conceal himself, and squeezed the handcuffs tighter again. § 87(2)(b) asked PO Cordero why he was squeezing the cuffs. PO Cordero did not respond, and squeezed the hand cuffs tighter again. § 87(2)(b) was issued three summonses and released at approximately 6:30 p.m., approximately two hours after he arrived at the stationhouse. The next morning § 87(2)(b) went to § 87(2)(b) and saw a doctor regarding his wrist. He was prescribed medication for swelling and informed to follow up with a neurologist.

On July 18, 2018, § 87(2)(b) took photos of marks on both of his wrist allegedly caused by the handcuffs. Black marks are visible on both of § 87(2)(b) wrists. On August 3, 2018, the undersigned investigator took photographs of marks on both of § 87(2)(b) wrists allegedly caused by the handcuffs. Black marks are visible on both of § 87(2)(b) wrists. **(Board Review 02)**

Medical records from § 87(2)(b) indicate that on July 19, 2018, § 87(2)(b) went into the office and complained that he had tingling in his right hand. § 87(2)(b) stated that he was arrested and handcuffed the night prior and that the officer squeezed the handcuffs tight causing pain to the wrist and tingling of the hand. § 87(2)(b) was diagnosed with an injury of the radial nerve at the wrist and hand of the right arm. He was prescribed steroids and informed to follow up with a neurologist. **(Board Review 03)**

§ 87(2)(b) who provided an unverified statement, stated that he saw PO Cordero tighten § 87(2)(b) handcuffs one or twice while PO Cordero walked him to the police van. § 87(2)(b) complained to PO Cordero that the handcuffs were too tight. § 87(2)(b) was released on scene and did not see § 87(2)(b) be taken into the PSA7 stationhouse.

Surveillance video obtained from the PSA7 stationhouse shows PO Cordero walking § 87(2)(b) into the stationhouse. At 00:34, PO Cordero touches § 87(2)(b) however, it is unclear if PO Cordero is touching § 87(2)(b) handcuffs or forearms. **(Board Review 04)**

PO Cordero testified that he placed § 87(2)(b) in handcuffs. PO Cordero double-locked § 87(2)(b) handcuffs to ensure that they did not overtighten if he leaned on them, and PO Cordero ensured that they were not too tight by looking at the space between the handcuffs and § 87(2)(b) wrists. PO Cordero stated that he did not retighten or adjust § 87(2)(b) handcuffs at any point. PO Cordero did not see any other officers tighten § 87(2)(b) handcuffs. § 87(2)(b) did not complain of any pain after being handcuffed or say that they were too tight. PO Cordero then walked § 87(2)(b) to the police van and placed him into it. PO Cordero did not tighten § 87(2)(b) handcuffs while walking to the van. PO Cordero removed § 87(2)(b) from the police van and walked him into the stationhouse. PO Cordero did not tighten § 87(2)(b) handcuffs while walking him into the stationhouse. PO Cordero was shown surveillance video from the PSA7 stationhouse and he stated that his hands were on § 87(2)(b) forearm and not the handcuffs.

Neither PO Suarez nor PO Orellana saw PO Cordero retighten § 87(2)(b) handcuffs at any point.

§ 87(2)(b), § 87(2)(g)

### **Allegations Not Pled**

§ 87(2)(b) provided a statement to the investigation while he was incarcerated via video teleconferencing (VTC). A verification form was mailed to § 87(2)(b) however, the documents were returned as undeliverable as § 87(2)(b) was released. The field team went to § 87(2)(b) to have him sign the verification form; however, he refused to sign the verification form (**Board Review 01**). In his statement, § 87(2)(b) alleged that officers told him to stop recording and removed his phone from his hand, and that PO Cordero told § 87(2)(b) that he was going to give him an “eat a dick ticket.” Since § 87(2)(b) did not raise these allegations in his sworn statement, and since after § 87(2)(b) refused to sign the verification form, these allegations have not been pled.

### **Civilian and Officer CCRB Histories**

- § 87(2)(b)
    - § 87(2)(b)
  - § 87(2)(b)
- (Board Review 05)

- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]

**(Board Review 05)**

- PO Suarez has been a member-of-service for five years and has been a subject in one additional CCRB complaint, 201806609, which is currently under investigation.
- PO Cordero has been a member-of-service for four years and has been a subject in five additional CCRB complaints and 15 allegations, three of which were substantiated.
  - 201702059 involved a substantiated allegation of abuse – frisk. The board recommended formalized training and the NYPD imposed formalized training.
  - 201708245 involved substantiated allegations of abuse – vehicle search and abuse – retaliatory summons. The board recommended charges, and the disposition is pending.

**Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]



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Squad No.: 11

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date